

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

U.S. DEPARTMENT OF ENERGY

AND THE

U.S. DEPARTMENT OF THE ARMY

*Revised  
Jul 90*

SUBJECT: Support for the U.S. Department of Energy's  
Environmental Restoration and Waste Management  
Program

1. PURPOSE: The purpose of this Memorandum of Understanding (MOU) is to define the support the U.S. Department of the Army (DA), acting through the U.S. Army Corps of Engineers (USACE), will provide the U.S. Department of Energy (DOE) in connection with DOE's Environmental Restoration and Waste Management Program (the Program). This MOU is entered pursuant to 42 U.S.C. 7101 et. seq., 31 U.S.C. 1535, and 10 U.S.C. 3036(d).

2. SCOPE: The support which USACE will provide to DOE includes support to DOE Headquarters, Operations Offices, and subordinate installations. Nothing in this MOU shall be construed to require DOE to use the services of USACE, nor to require USACE to accept assignments from DOE.

3. RESPONSIBILITIES:

a. DOE is responsible for:

- (1) Program Definition and Implementation. DOE remains responsible for overall management and implementation of the Program. These responsibilities include, but are not limited to, definition of the Program scope, establishment of priorities, and development of guidance for Program implementation.
- (2) Tasking and Guidance. DOE will be responsible for determining the specific services to be requested from USACE for DOE Headquarters, Operations Offices, or subordinate installations. DOE will provide USACE with statements of specific project management responsibilities concerning environmental restoration and waste management.

- (3) Management of the Program.
- (4) Public affairs as further specified in paragraph 9 of this MOU.

b. USACE's responsibilities will be set forth in Interagency Agreements (IAs) that specify one or more individual tasks. USACE's responsibilities may include any of the following:

- (1) Providing management services to DOE Headquarters.
- (2) Providing technical assistance related to the planning, engineering, design, and construction of environmental restoration and waste management projects at DOE facilities.
- (3) Executing Program activities as assigned by DOE Headquarters, Operations Offices, and subordinate installations. This may include, but is not limited to:
  - (a) Preparing cost estimates;
  - (b) Furnishing assistance with respect to necessary permits;
  - (c) Developing work plans;
  - (d) Performing environmental studies;
  - (e) Designing and constructing remediation and waste management projects; and
  - (f) Furnishing other related services, such as real estate services, research and development, procurement, and training.
- (4) To the extent agreed by USACE, support will be provided to DOE through a combination of contract and in-house effort. Unless otherwise required by law, all contract work undertaken by USACE shall be performed in accordance with DA procurement policies and procedures. All contracts entered into by USACE will be coordinated with DOE.

4. **REPORTING:** USACE will provide DOE with status reports on tasks assigned to USACE in IAs, including providing financial reports on all funds received, obligated, and expended.

5. **RESOURCE MANAGEMENT:** DOE will support USACE manpower requests for tasks assigned in IAs. Financial resources will be provided to USACE by DOE in advance of USACE incurring any obligation for work.

6. **PROGRAM FUNDING:** IAs will identify required funds to complete specific tasks. Any funds remaining upon termination or completion of an IA shall be returned to DOE, following closure of any USACE contracts issued under that IA. DOE and DA will cooperate in the development and support of budget requests to the Congress and the Office of Management and Budget with respect to projects on which the two agencies collaborate.

7. **MANAGEMENT ARRANGEMENTS:** IAs will provide for direct communication between DOE and USACE officials involved in managing specific work to be performed. IAs will include project plans with sufficient detail to serve as project documentation and to set forth specific arrangements for project implementation. Project plans will also set forth procedures for cooperating with other agencies when decisions by those agencies are required.

8. **PATENTS AND TECHNICAL DATA:** It is the policy of DOE to make the results of any research, development, or demonstration work under this MOU available to the public, consistent with applicable laws and regulations. DOE has specific statutory patent policy applicable to these matters, and therefore ordinarily, DOE patent policy shall apply. All patent and technical data matters which may arise under IAs and related procurements shall be coordinated between DA and DOE patent counsel. Rights to inventions made by employees of either agency shall be determined by the employing agency.

9. **PUBLIC INFORMATION COORDINATION:** Decisions on disclosure of information to the public regarding actions taken under this MOU will be made in accordance with applicable laws and regulations, following consultation between DOE and USACE public affairs/press office representatives. DOE will be responsible for congressional liaison and public announcements. USACE may, however, make public announcements associated with the solicitation and contract award process.

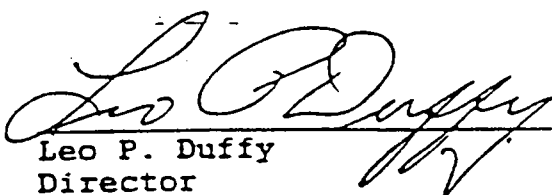
10. AMENDMENT AND TERMINATION: This MOU may be modified or amended by written agreement between DOE and DA, and may be terminated by mutual agreement of DOE and DA, or by either party upon 90-day written notice to the other.

11. IMPLEMENTATION: DOE and USACE will issue instructions to their respective field organizations concerning implementation of this MOU.

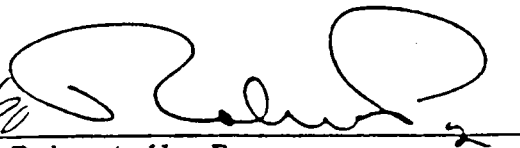
12. EFFECTIVE DATE: This MOU is effective on the date of the last signature below.

U.S. Department of Energy

U.S. Department of the Army



Leo P. Duffy  
Director  
Office of Environmental  
Restoration and Waste  
Management



Robert W. Page  
Assistant Secretary of the  
Army (Civil Works)

7/12/90

GENERAL PROVISIONS  
FOR DOE INTERAGENCY AGREEMENT (IA)

1. Definitions. For purposes of this agreement, "DOE" means the United States Department of Energy or any duly authorized representative thereof, and "Agency" means the performing agency stated in the agreement or any duly authorized representative thereof.
2. Cost Chargeable to DOE Funds. Direct costs are those that can be directly identified with and charged to the work under the agreement and within the limitations set forth below. Examples of such costs are salaries, wages, technical services, materials, travel and transportation, communications, and any facilities and equipment expressly approved or purchase under the interagency agreement.
  - a. Expenditures for domestic travel expected to exceed \$1,000 per individual trip shall not be allowable hereunder without prior written approval of the DOE Contracting Officer.
  - b. Foreign travel costs are allowable only when the trip has received the advance approval of the DOE Contracting Officer.
  - c. Reimbursement for expenditures at technical meetings and seminars at which attendance is not required by DOE shall be allowable without prior written approval of the DOE Contracting Officer.
3. Financing. DOE will finance programs on a reimbursable basis when acceptable to the other agency. If the reimbursable basis is not acceptable, however, then DOE will finance the work by a Consolidated Working Fund Advance, preferably on a quarterly basis, or by an appropriation transfer or transfer appropriation. DOE will reimburse or will make available, in advance, the amount specified in the Interagency Agreement incorporating these general provisions. Requests for funds shall show separately the amount required for (a) operating costs, (b) capital equipment (as defined in 9 below), and (c) acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion.
  - a. Vouchers for payment will be submitted on the agreed upon form.
  - b. Any funds advanced which are expected to remain beyond the original period of performance for a project which is incomplete, or for which there is an increased scope of work, will remain available to the agency if the IA is amended by the DOE to extend the period of performance for the research project or any other work beyond the original completion date. Request for such time extensions should be made to the DOE by the agency at least 30 days prior to the end of the performance period.

- c. Any advanced funds remaining for a continuing research project or any other work remain available for the entire performance period of the project, unless there is a date specified as a required completion date after which no further funds shall be expended.
  - d. Any advanced funds remaining after the completion of a research project shall be reimbursed to the DOE.
4. Notice of Costs Approaching Total Estimated Costs. Whenever the agency has reason to believe that the total cost of the work under this agreement will be substantially greater or less than the presently estimated cost of the work, the agency shall promptly notify the DOE in writing. The agency shall also notify the DOE, in writing, when the aggregate cost incurred and outstanding commitments allowable under this agreement equal 90 percent (or such other percentage as the DOE may from time to time establish by notice to the agency) of the presently estimated total costs under this agreement. When the costs incurred and outstanding commitments equal 100 percent of such estimated total costs, the agency shall make no further commitments or expenditures (except to meet existing commitments) and shall be excused from further performance of the work unless and until the DOE shall increase the total estimated costs to be incurred with respect to this agreement.
5. Excess Funds. The agency shall take prompt action to return to the DOE any funds determined to be excess to the work during the performance of the work and any unobligated funds after the completion of the agreement or as of September 30 each year unless the agreement has been extended and any unused balances have been carried forward in the extension. In a joint venture project where the performing agency deposits the advance in any annual consolidated working funds, any unobligated balances shall be returned to the DOE before the cutoff date at the close of each fiscal year.
6. Financial Reports. The agency shall furnish the DOE, not later than 15 days after the close of each reporting period, monthly or other periodic cost or financial reports in such form and detail as may be required by the DOE. Any costs incurred for capital equipment or other assets shall be supported by a list showing the description, make, any serial number, and the cost of each item acquired.
7. Accounting Records. The agency shall accumulate and account for obligations and costs incurred in connection with the work being performed under this agreement in such form and detail as may be required by the DOE.
8. Termination. The DOE may terminate this agreement upon 30 days written notice of such termination addressed to the agency. In the event of such termination the agency shall be reimbursed, to the extent permitted, for obligations actually incurred to the effective date of termination and for commitments extending beyond the effective date of termination to a date not later than the date upon which the agreement would have expired if not terminated under this paragraph, which the agency, in the exercise of due diligence, is unable to cancel. Payments under this agreement, including payments under this article, shall not exceed the ceiling amount elsewhere specified in this agreement.

9. Capital Equipment.

- a. "Capital Equipment" means each item of equipment which is expected to have an extended period of service, generally a year or more, and has sufficient monetary value, generally of \$500 or more, to justify continuing accounting records for the item.
- b. Unless expressly authorized by the Contracting Officer in advance, the agency shall not be reimbursed or use funds made available under this agreement for the procurement or fabrication of capital equipment.
- c. If capital equipment is purchased or otherwise acquired pursuant to an authorization under paragraph (b) above, except as may be otherwise agreed by the DOE and the agency.
  - (1) the title thereto shall vest in the DOE,
  - (2) the agency shall be responsible for the maintenance and safeguarding thereof, and
  - (3) the agency shall maintain a record in such a manner as to insure adequate control and accounting satisfactory to the DOE, of capital equipment procured or fabricated.

10. Real Property and Facilities.

- a. Unless expressly authorized by the Contracting Office in advance, the agency shall not be reimbursed or use funds made available under this agreement for the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion.
- b. If the agency acquires or condemns any real property or any facility or acquires, constructs, or expands any plant or facility pursuant to an authorization under (a) above, except as may be otherwise agreed by the DOE and the agency.
  - (1) title thereto shall vest in the DOE, and property accountability and control shall become the responsibility of the DOE,
  - (2) the agency shall be responsible for the maintenance and safeguarding thereof, and
  - (3) the agency shall maintain a record thereof in such a manner as to insure adequate control and accounting satisfactory to the DOE.

11. Security of Restricted Data.

- a. CONTRACTING AGENCY'S DUTY TO SAFEGUARD RESTRICTED DATA, FORMERLY RESTRICTED DATA, AND OTHER CLASSIFIED INFORMATION. The agency shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding restricted data, formerly restricted

data, and other classified information, and protecting against sabotage, espionage, loss and theft of the classified documents and material in the agency's possession in connection with the performance of work under this agreement.

Except as otherwise expressly provided in this agreement, the agency shall upon completion or termination of this agreement, transmit to DOE any classified matter in the possession of the agency or any person under the agency's control in connection with performance of this agreement. If retention by the agency of any classified matter is required after the completion or termination of the agreement and such retention is approved by the DOE, the agency will complete a certificate of possession to be furnished to DOE specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter and the period of retention, if known. If the retention is approved by the DOE, the security provisions of the agreement will continue to apply to the matter retained.

- b. **REGULATIONS.** The agency agrees to conform to all security regulations and requirements of DOE.
- c. **DEFINITION OF RESTRICTED DATA.** The term "restricted data," as used in this clause, means all data concerning (1) design, manufacture, or utilization of atomic weapons, (2) the production of special nuclear material, (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the restricted data category pursuant to Section 142 of the Atomic Energy Act of 1954.
- d. **DEFINITION OF FORMERLY RESTRICTED DATA.** The term "formerly restricted data," as used in this clause, means all data removed from the restricted data category under Section 142d of the Atomic Energy Act of 1954, as amended.
- e. **SECURITY CLEARANCE OF PERSONNEL.** The agency shall not permit any individual to have access to restricted data, formerly restricted data, or other classified information, except in accordance with the Atomic Energy Act of 1954, as amended, and the DOE's regulations or requirements which apply to the particular type or category of classified information to which access is required.
- f. **CRIMINAL LIABILITY.** It is understood that disclosures of restricted data, formerly restricted data, or other classified material relating to the work or services hereunder to any person not entitled to receive it, or failure to safeguard any restricted data, formerly restricted data, or other classified material that control in connection with the work under this agreement, may subject any representatives of the agency, its agents, employees or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2100 et seq., 18 U.S.C. 793 and 794, and Executive Order 11652.)

- g. **CONTRACTS AND PURCHASE ORDERS.** Except as otherwise authorized in writing by DOE, the agency shall insert provisions similar to the foregoing in all contracts and purchase orders under this agreement.
  - h. **SECURITY REQUIREMENTS FOR PROPRIETARY ENERGY DATA.** The agency shall safeguard DOE limited official use information, or other proprietary or sensitive data (including material relating to patents), from unauthorized access, disclosure, modification or destruction in accordance with applicable DOE security regulations, orders and directives.
  - i. **COMPUTER SECURITY REQUIREMENTS.** In the event that this agreement involves utilization of a DOE computer system, the agency will establish administrative, technical and physical security procedures in accordance with DOE regulations to ensure against access to DOE information to individuals not formally authorized by DOE to possess such information.
12. **CLASSIFICATION.** In the performance of the work under this agreement, the agency shall assign or obtain classifications to all documents, material, and equipment originated or generated by the agency in accordance with classification guidance furnished to the agency by the DOE. Every subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or equipment shall include a provision to the effect that in the performance of such subcontract or purchase order, the subcontractor or supplier shall assign classifications to all such documents, material, and equipment in accordance with classification guidance furnished to such subcontractor or supplier by the agency.
13. **TECHNICAL PROGRESS REPORTS - PUBLICATION.** The agency will make such reports to the DOE on the progress of the of the work under this agreement as may be mutually agreed upon.

It is the policy of DOE to make the results of the research, development and demonstration work contemplated under interagency agreements broadly available to the scientific, technical and engineering community and others through the timely publication of reports or journal articles. All publications and engineering materials prepared under the IA will be freely exchanged and made available for public sale unless classified, and a minimum of two copies sent to the DOE Technical Information Center (TIC), P.O. Box 62, Oak Ridge, Tennessee 37830. Each IA technical report issued and each task order technical report issued pursuant to a master IA will be accompanied by a DOE Form 537 and a statement describing the technical reports delivered and will be sent to TIC for incorporation into the Technical Information Management System (TIMS).

14. **ENVIRONMENTAL, SAFETY AND HEALTH REQUIREMENTS.** DOE will not assume responsibility for prescribing and/or enforcing environmental safety and health requirements for operators of other agency facilities engaged in the performance of DOE work.